

## **REMARKS**

Applicant is in receipt of the Office Action mailed January 14, 2004. Claim 45 has been cancelled. Claims 43, 46, 57, 59, and 60 have been amended. Applicant believes the amendments bring the application into condition for allowance. Claims 43, 44, and 46-60 remain pending in the case. Further consideration of the present case is earnestly requested in light of the following remarks.

### **Section 103(a) Rejections**

Claim 43 was rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,339,392 by Risberg et al. ("Risberg") and also over Microsoft Office 97, as described in the book *Mastering Microsoft Office 97, Professional Edition* by Lonnie E. Moseley and David M. Boodey ("Office 97"). Applicant respectfully disagrees.

Amended claim 43 recites:

43. A memory medium comprising program instructions for configuring a graphical user interface (GUI) element to subscribe to data source, wherein the program instructions are executable to implement:

receiving user input specifying a data source, wherein the user input is received to a program development environment during creation of a program, and wherein said receiving user input specifying a data source comprises receiving user input specifying a uniform resource locator (URL) of the data source;

programmatically selecting a GUI element after receiving the user input, wherein the GUI element is selected based on a data type of data provided by the data source;

displaying the selected GUI element in the program after said programmatically selecting; and

programmatically configuring the GUI element to receive and display data from the specified data source.

The Office Action admits that Risberg does not teach programmatically selecting a GUI element after receiving the user input, wherein the GUI element is selected based

on a data type of data provided by the data source, and then displaying the selected GUI element in the program after said programmatically selecting, but asserts that it would have been obvious to combine Risberg with Office 97 to produce Applicant's invention as represented in claim 43. Applicant respectfully disagrees.

Applicant believes that the Examiner has mischaracterized and misconstrued Applicant's earlier description of the Office 97 reference in Applicant's previous response, and notes that Applicant's presumption regarding the manner in which the cited art operates does not constitute an admission of prior art, but is merely speculation. In fact, the very next sentence in the cited paragraph reads "*The Office 97 reference thus does not teach or suggest programmatically selecting a GUI element based on a data type of data provided by the data source*", and thus indicates that the Microsoft Excel Worksheet object is interpreted as specifying the data source type, i.e., the Excel spreadsheet application, not the data type of the data provided by the source. Applicant notes that in the prior Office Action the Examiner states, "In any event, Office 97 teaches displaying a GUI element in response to user input specifying a data source." Applicant thus submits that by the Examiner's own characterization of Office 97, the reference does not teach *programmatically selecting a GUI element based on a data type of data provided by the data source*. Applicant further submits that Office 97 does not programmatically select a GUI element at all, but rather, the user selects the GUI element, as describe in more detail below.

Office 97 discloses selecting a data source for an active document (e.g., Microsoft Word), such as a spreadsheet application, by the user manually selecting or copying an application object, and inserting the object into the document, where the object then serves as a GUI for displaying data from the application. In other words, the GUI is *manually* selected, e.g., based on a *data source* type, i.e., an application type. In other words, as clearly described in Office 97, the user manually selects and inserts the application object/GUI into the document. As Figure 3.9 of Office 97 shows, in the described spreadsheet example, the pasted object/GUI is, in fact, the spreadsheet column copied from the original spreadsheet. Nowhere does Office 97 teach or suggest

programmatically selecting a GUI element based on a data type of data provided by the data source.

More importantly, as described in Office 97 in reference to Figures 3.7, 3.8, and 3.9, “*Linking* is one method of placing an object from one application into another.” As the described example indicates, the user copies (see step 4 of the example) and pastes (steps 7 and 8) a portion of an Excel spreadsheet (as an Excel spreadsheet object), e.g., a spreadsheet column, into a Word document, which then remains linked to the original spreadsheet object for receiving active data. Thus, the user *manually* places the GUI (the Excel spreadsheet object) into the Word document. Thus, the user specifies the data source, and at the same time, selects the appropriate GUI as part of the same step. Applicant thus submits that there is no *programmatically selecting a GUI element based on a data type of data provided by the data source* disclosed in Office 97. This process is described in more detail below.

In contrast, in the method represented by claim 43, *the GUI element is programmatically selected based on a data type of data provided by the data source*. Applicant notes that there is a substantial difference between a *data source* type and a *data type*. For example, on page 46, lines 8-9, the specification states “any of various types of data may be associated with a data source, such as strings, scalars, Booleans, waveforms”, and on page 56, lines 19-20, the specification refers to “simple data types like numbers or Boolean values and data types that require additional memory for storage such as strings and arrays”. Note that these are not application types or data source types, but data types proper, as is well known to those skilled in the programming arts. Thus, for example, if the data type from the data source were a floating point data type, then a GUI element suitable for displaying floating point values may be programmatically selected, and so forth, for various data types.

Thus, Applicant respectfully submits that neither Office 97 nor Risberg teaches this limitation of claim 43. Furthermore, Applicant notes that neither Risberg nor Office 97 teaches the added limitation of amended claim 43, *wherein said receiving user input specifying a data source comprises receiving user input specifying a uniform resource locator (URL) of the data source*.

Upon further review of the Risberg reference, and in light of the Examiner's characterization of Risberg in the previous Office Action, which states, "Similar to the application taught by Risberg, which is used to construct active documents, i.e., GUIs, Microsoft Word is an application used to construct documents", Applicant respectfully submits that neither Risberg nor Office 97 teaches the limitation *wherein the user input is received to a program development environment during creation of a program*, in that active documents are not properly considered programs, as understood by those of skill in the art of programming. Although both references disclose specifying data sources, Applicant notes that both Risberg's system of custom active documents and Office 97's active documents do not comprise programs, i.e., do not provide general purpose programming functionality, and so Applicant submits that Risberg and Office 97 are non-analogous art with respect to the present application. For example, nowhere does Risberg mention or even hint at specifying a data source for use in a general purpose graphical program, or even a text-based program, but rather, only describes specifying a data source for an active document, i.e., a page based GUI.

Applicant further submits that neither Risberg nor Office 97 provides a motivation to combine. Further, Applicant submits that the combination of Risberg and Office 97 does not teach the present claims.

As stated in *C.R. Bard, Inc. v. M3 Sys., Inc.*, 48 USPQ 2d 1225, 1232 (Fed. Cir. 1998), "The invention that was made, however, does not make itself obvious; that suggestion or teaching must come from the prior art. See, e.g., *Uniroyal, Inc. v. Rudkin Wiley Corp.*, 837 F.2d 1044, 1051 52, 5 USPQ 2d 1434, 1438 (Fed. Cir. 1988) (it is impermissible to reconstruct the claimed invention from selected pieces of prior art absent some suggestion, teaching, or motivation in the prior art to do so); *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985) (it is insufficient to select from the prior art the separate components of the inventor's combination, using the blueprint supplied by the inventor); *Fromson v. Advance Offset Plate, Inc.*, 755 F.2d 1549, 1556, 225 USPQ 26, 31 (Fed. Cir. 1985) (the prior art must suggest to one of ordinary skill in the art the desirability of the claimed combination)."

Applicant submits that Risberg's system is directed to creation of custom active documents (Abstract), whereas Applicant's system relates to programmatic selection or configuration of a GUI element during creation of a program in a program development environment, as represented in claim 43. Applicant further submits that even if one were to combine Risberg with Office 97, the resulting combination would not produce Applicant's invention as represented in claim 43. For example, the combination would necessarily include a text document, which is not a feature of Applicant's invention as claimed, thus, the combination teaches away from Applicant's invention.

Thus, for at least the reasons provided above, Applicant respectfully submits that neither Risberg nor Office 97, either singly or in combination, teaches or suggests the features and limitations of claim 43, and so claim 43, and claims dependent thereon, are unobvious and patentably distinguishable over the cited art, and are thus allowable.

Independent claims 57 and 59 contain similar limitations as claim 43, and so the arguments provided above apply with equal force. Thus, Applicant respectfully submits that claims 57 and 59 are patentably distinguishable over the cited art, and are thus allowable.

Claim 60 was rejected under 35 U.S.C. 103(a) as being obvious over Risberg and Office 97, and also over U.S. Patent No. 5,959,621, attributed to Nawaz et al. ("Nawaz"). Applicant respectfully disagrees.

Amended claim 60 contains similar limitations as amended claim 43, and so the arguments provided above apply with equal force to claim 60. Additionally, claim 60 includes the further limitations of a data target, and the GUI element publishing to the data target.

Applicant submits that there is no teaching or suggestion to combine in Risberg, Office 97, or Nawaz, and that even if the three references were combined, the result would not read on Applicant's invention as represented in claim 60.

Applicant submits that while Nawaz does describe user specification of data sources for the GUI, Nawaz specifically does not teach user specification of data targets for publishing the data from the data source (where the data are also displayed on the GUI).

Rather, Nawaz teaches user specification of targets for posted *messages*, specifically, specifying people by building, or category, such as job function, e.g., program manager, etc. For example, as described in Nawaz, column 11, and illustrated in Figure 6, fields are provided for specifying people, evidently within the user's business or organization, as well as a field for entering the message to be posted, labeled "Posting Text". The posted messages are then inserted into the ticker display of the GUI on the workstations of the specified recipients (people).

Applicant notes that the targets specified for receipt of the posted messages are the workstations of specified people, or categories of people, in the organization or business. Thus, the targets of Nawaz are specified by user or user category, not by a URL or other resource designation.

Applicant further notes that the examples of the posted messages provided by Nawaz are messages from and to employees, such as "Tan Volkswagen, license plate number CSN 82H left headlights on", "meeting in 5 minutes", "meeting at 3:00", as well as system-related messages, such as, "hard drive full", "low memory warning", "incoming e-mail", and "print job completed". Nawaz does not mention posting or publishing (ticker) data to user specified targets. Nowhere does Nawaz teach or describe posting or publishing data received from a user specified data source to a user specified data target.

While Nawaz does disclose using a URL to retrieve data items or messages from content providers (col. 12, lines 37-38), nowhere does Nawaz teach or suggest using a URL to specify a data source and data target, and programmatically configuring the GUI element to receive and display data from the specified data source and publish data to the specified data target.

Thus, Applicant respectfully submits that none of Risburg, Office 97, nor Nawaz, either singly or in combination, teaches or suggests Applicant's invention as represented in claim 60.

Claim 58 was rejected under 35 U.S.C. 103(a) as being obvious over Risberg and Office 97, and also over U.S. Patent No. 5,291,587 to Kodosky ("Kodosky"). Applicant respectfully disagrees.

Claim 58 recites:

58. (Previously Presented) A memory medium comprising program instructions for configuring a graphical program to display data, wherein the program instructions are executable to implement:

receiving user input during development of the graphical program specifying a data source, wherein the graphical program comprises a block diagram and a user interface panel, wherein the block diagram comprises a plurality of connected nodes which visually indicate functionality of the graphical program, wherein the user input is received by the user interface panel;

programmatically determining a graphical user interface (GUI) element operable to display data from the specified data source, in response to the user input, wherein said programmatically determining operates to determine the GUI element based on a data type of data provided by the specified data source;

programmatically including the GUI element in the user interface panel of the graphical program;

programmatically configuring the graphical program to receive and display data from the specified data source in the GUI element during program execution.

In the Office Action, the Examiner asserts that Risberg teaches a graphical program, in that the program presented by Risberg includes GUI elements. Applicant submits that this interpretation of "graphical program" is not the generally accepted meaning of the term "graphical program" in the art of programming. This point is specifically made in the background of the present application, where "graphical programming" is contrasted with "text-based programming". Applicant thus respectfully submits that Risberg does not teach a graphical program.

The Office Action admits that Risberg does not teach a graphical program where the “graphical program includes a block diagram comprising a plurality of connected nodes, wherein the connected nodes visually represent functionality of the graphical program”, but asserts that it would have been obvious to combine Risberg with Kodosky, and that such a combination produces Applicant’s invention as claimed.

Applicant submits that neither Risberg nor Kodosky provides a motivation to combine. Further, Applicant submits that the combination of Risberg and Kodosky does not teach the present claims. Applicant submits that Risberg’s system is directed to creation of custom active documents (Abstract), whereas Applicant’s system relates to automatic configuration of a graphical program [as defined in the Application], as represented in claim 60. As mentioned above, Risberg’s custom active documents are not properly considered programs, e.g., do not provide general purpose programming functionality, and so Applicant submits that Risberg is non-analogous art with respect to the present application.

The Office Action further asserts that the combination of Risberg, Office 97, and Kodosky “includes a block diagram, the block diagram defining the functionality of the active document created by the application”

As stated in *C.R. Bard, Inc. v. M3 Sys., Inc.*, 48 USPQ 2d 1225, 1232 (Fed. Cir. 1998), “The invention that was made, however, does not make itself obvious; that suggestion or teaching must come from the prior art. See, e.g., *Uniroyal, Inc. v. Rudkin Wiley Corp.*, 837 F.2d 1044, 1051 52, 5 USPQ 2d 1434, 1438 (Fed. Cir. 1988) (it is impermissible to reconstruct the claimed invention from selected pieces of prior art absent some suggestion, teaching, or motivation in the prior art to do so); *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985) (it is insufficient to select from the prior art the separate components of the inventor’s combination, using the blueprint supplied by the inventor); *Fromson v. Advance Offset Plate, Inc.*, 755 F.2d 1549, 1556, 225 USPQ 26, 31 (Fed. Cir. 1985) (the prior art must suggest to one of ordinary skill in the art the desirability of the claimed combination).”



Applicant notes that nowhere does Risberg or Office 97 teach or suggest, mention, or even hint at, a block diagram as taught by Kodosky; nor does Kodosky teach or suggest, mention, or even hint at, an active document, such as an active text document. Thus, Applicant submits that none of the cited references provides a motivation to combine. Rather, Applicant respectfully submits that the Examiner has simply combined elements from Risberg, Office 97, and Kodosky, using Applicant's claimed invention as a template, to produce the described system. Applicant further notes that combining Risberg, Office 97, and Kodosky would necessarily result in a system that includes both a graphical program *and* at least one active document. However, Applicant's invention as claimed does not require an active document, and so teaches away from the combination.

Additionally, nowhere does Risberg or Office 97 mention or even hint at specifying a data source and data target for use in a graphical program, or even a text-based program, but rather, only describes specifying a data source for an active document, i.e., a page based GUI.

In column 11, line 35 – column 12, line 28, Risberg describes a system in which a user manually creates or inserts a display object, i.e., an active object, in an active document comprising one or more sheets, and specifies a data source for the display object, after which the display object displays data from the specified data source. In other words, the user configures the document, or more specifically, the display object included in the document, to receive data from the specified source. Applicant notes that in Risberg's system, no graphical program is automatically (i.e., programmatically) configured to subscribe to a data source or publish to a data target in response to the user input specifying the source or target. Similarly, while Kodosky describes graphical programs, comprising block diagrams and front panels, nowhere does Kodosky teach or suggest the features of claim 60. For example, nowhere does Kodosky teach or suggest *wherein said receiving user input specifying a data source and data target comprises receiving user input specifying a uniform resource locator (URL) of the data source and the data target*. Thus, even if the Risberg, Office 97, and Kodosky references were combinable, which Applicant argues they are not, the combination would not teach or suggest at least this element of the present claims. Specifically, neither Risberg, Office

97, nor Kodosky, either singly or in combination, teach this element of the present claims.

Thus, for at least the reasons provided above, Applicant respectfully submits that neither Risberg, Office 97, nor Kodosky, either singly or in combination, teaches or suggests the features and limitations of claim 60, and so claim 60 is patentably distinguishable over the cited art, and is thus allowable.

Removal of the 103 rejection of claims 43,44, and 46-60 is respectfully requested.

Applicant also asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

## CONCLUSION

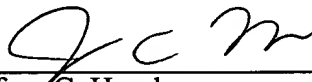
In light of the foregoing amendments and remarks, Applicant submits the application is now in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-50800/JCH.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Notice of Change of Address

Respectfully submitted,

  
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